

Message Text

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12
ACTION IO-11

INFO OCT-01 CIAE-00 CU-02 INR-07 NSAE-00 USIA-06 AF-06

ARA-06 EA-07 EUR-12 NEA-10 ISO-00 OIC-02 L-03 SMI-01

SSO-00 INRE-00 /074 W
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O 090914Z MAR 76
FM AMEMBASSY PARIS
TO SECSTATE WASHDC IMMEDIATE 8617

LIMITED OFFICIAL USE SECTION 01 OF 05 PARIS 06970

NESCO

E.O. 11652: N/A
TAGS: OCON, UNESCO
SUBJECT: UNESCO SPECIAL COMMITTEE OF GOVERNMENTAL
EXPERTS TO PREPARE A DRAFT RECOMMENDATION ON
EXCHANGE OF ORIGINAL OBJECTS AND SPECIMENS
AMONG INSTITUTIONS IN DIFFERENT COUNTRIES;
MARCH 8-17, PARIS

REF: STATE 050665

1. SUBJECT MEETING OPENED MARCH 8 WITH MORNING SESSION
TAKEN UP BY WELCOMING REMARKS OF DEPUTY DG FOBES AND
THE ELECTION OF FOLLOWING MEETING OFFICERS ON
CONSENSUS BASIS: CHAIRMANSHIP - FRANCE; VICE
CHAIRMANSHIPS - US, USSR, JAPAN, KENYA, ARGENTINA, LIBYA
AND RUMANIA CHOSEN AS RAPPOREUR. YUGOSLAVIA ALSO
SELECTED BY CONSENSUS TO CHAIR DRAFTING GROUP THAT WILL
BEGIN WORKING MARCH 12 ON NEWLY REVISED TEXT OF DRAFT
RECOMMENDATION.

2. PERMDEL REQUESTS URGENTLY, FOR REFERENCE OF USDEL TO
MEETING, DEPARTMENT'S GUIDANCE AND INSTRUCTIONS
ON REVISED DECLARATION TEXT, ISSUED ONLY TODAY,
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REFLECTING COMMENTS OF MEMBER STATES ON INITIAL DRAFT

RECOMMENDATION. USDEL IN VIEW VERY PRELIMINARY GUIDANCE,
AND ABSENCE OF ANY PROPOSALS FOR AMENDMENT, PROVIDED
REFTEL,DECLINED SECRETARIAT OFFER TO PARTICIPATE ON
DRAFTING COMMITTEE.

3. UNCERTAIN AS YET WHETHER ISSUE OF RESTITUTION OF
CULTURAL OBJECTS WILL BE RAISED BY LDC'S BUT SECRETARIAT
PREPARED TO REMIND MEETING THAT THIS ISSUE NOT RELEVANT
TO DRAFT RECOMMENDATION.

4. REVISED TEXT, ENTITLED "REVISED DRAFT RECOMMENDATION
ON THE INTERNATIONAL EXCHANGE OF CULTURAL PROPERTY,"
READS AS FOLLOWS:

BEGIN QUOTE "THE GENERAL CONFERENCE OF THE UNITED
NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION
,MEETING IN , FROM TO
1976, AT ITS NINETEENTH SESSION,

RECALLING THAT CULTURAL PROPERTY CONSTITUTES A BASIC
ELEMENT OF CIVILIZATION AND NATIONAL CULTURE,

CONSIDERING THAT IT IS ACCORDINGLY VITAL FOR EVERY PEOPLE
THAT IT SHOULD NOT ONLY PRESERVE THE MATERIAL EVIDENCE OF
ITS OWN CULTURE BUT ALSO KNOW AND APPRECIATE SIMILAR
EVIDENCE OF OTHER CULTURES,

CONSIDERING THAT THE CIRCULATION OF CULTURAL PROPERTY,
WHEN REGULATED BY LEGAL, SCIENTIFIC AND TECHNICAL
CONDITIONS CALCULATED TO PREVENT ILLICIT TRADING IN AND
DAMAGE TO SUCH PROPERTY, IS A POWERFUL MEANS OF PROMOTING
MUTUAL UNDERSTANDING AND APPRECIATION AMONG NATIONS,

CONSIDERING THAT THE INTERNATIONAL CIRCULATION OF
CULTURAL PROPERTY IS STILL LARGELY DEPENDENT ON THE
ACTIVITIES OF SELF-SEEKING PARTIES AND SO TENDS TO LEAD
TO SPECULATION WHICH CAUSES THE PRICE OF SUCH PROPERTY TO
RISE, MAKING IT INACCESSIBLE TO POORER COUNTRIES AND
INSTITUTIONS WHILE AT THE SAME TIME ENCOURAGING THE
SPREAD OF ILLICIT TRADING,
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CONSIDERING THAT, EVEN WHEN THE MOTIVES BEHIND THE
INTERNATIONAL CIRCULATION OF THIS PROPERTY ARE
DISINTERESTED, THE ACTION TAKEN USUALLY RESULTS IN
UNILATERAL SERVICES, SUCH AS SHORT-TERM LOANS, DEPOSITS
UNDER MEDIUM- OR LONG-TERM ARRANGEMENTS, OR DONATIONS,

CONSIDERING THAT SUCH UNILATERAL OPERATIONS ARE STILL

LIMITED IN NUMBER AND RESTRICTED IN RANGE, BOTH BECAUSE
OF THEIR COST AND BECAUSE OF THE VARIETY OF COMPLEXITY
OF THE RELEVANT REGULATIONS AND PRACTICES,

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CONSIDERING THAT, WHILE IT IS HIGHLY DESIRABLE TO
ENCOURAGE SUCH OPERATIONS, BY REDUCING OR REMOVING THE
OBSTACLES TO THEIR EXTENSION, IT IS ALSO VITALLY
IMPORTANT TO PROMOTE BETTER BALANCED OPERATIONS ENABLING
ALL INSTITUTIONS TO DEAL WITH EACH OTHER ON AN EQUAL
FOOTING,

CONSIDERING THAT MANY CULTURAL INSTITUTIONS, WHATEVER
THEIR FINANCIAL RESOURCES, POSSESS SEVERAL IDENTICAL OR
SIMILAR SPECIMENS OF CULTURAL OBJECTS OF INDISPUTABLE
QUALITY AND ORIGIN WHICH ARE AMPLY DOCUMENTED, AND THAT
SOME OF THESE ITEMS, WHICH ARE OF ONLY MINOR OR SECONDARY
IMPORTANCE FOR THESE INSTITUTIONS BECAUSE OF THEIR
PLURALITY, WOULD BE WELCOMED AS VALUABLE ACCESSIONS BY
INSTITUTIONS IN OTHER COUNTRIES,

CONSIDERING THAT A SYSTEMATIC POLICY OF EXCHANGES AMONG

CULTURAL INSTITUTIONS, BY WHICH EACH WOULD PART WITH ITS SURPLUS ITEMS IN RETURN FOR OBJECTS THAT IT LACKED, WOULD NOT ONLY BE ENRICHING TO ALL PARTIES BUT WOULD ALSO LEAD TO A BETTER USE OF THE INTERNATIONAL COMMUNITY'S CULTURAL HERITAGE WHICH IS THE SUM OF ALL THE NATIONAL HERITAGES, LIMITED OFFICIAL USE

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RECALLING THAT THIS POLICY OF EXCHANGES HAS ALREADY BEEN RECOMMENDED IN VARIOUS INTERNATIONAL AGREEMENTS CONCLUDED AS A RESULT OF UNESCO'S WORK, SUCH AS THE RECOMMENDATION ON INTERNATIONAL PRINCIPLES APPLICABLE TO ARCHAEOLOGICAL EXCAVATIONS, ADOPTED IN NEW DELHI ON 5 DECEMBER 1956, AND ESPECIALLY ITS PARAGRAPH 23 (E), OR THE RECOMMENDATION ON THE MEANS OF PROHIBITING AND PREVENTING THE ILLICIT EXPORT, IMPORT AND TRANSFER OF OWNERSHIP OF CULTURAL PROPERTY, ADOPTED IN PARIS ON 13 NOVEMBER 1964, AND ESPECIALLY ITS PARAGRAPH 9,

NOTING THAT, ON THESE POINTS, THE EFFECTS OF THE ABOVE-MENTIONED INSTRUMENTS HAVE REMAINED LIMITED, AND THAT, GENERALLY SPEAKING, THE PRACTICE OF EXCHANGES BETWEEN DISINTERESTED CULTURAL INSTITUTIONS IS NOT WIDESPREAD, WHILE SUCH OPERATIONS AS DO TAKE PLACE ARE FREQUENTLY CONFIDENTIAL OR UNPUBLICIZED,

CONSIDERING THAT IT IS CONSEQUENTLY NECESSARY TO DEVELOP SIMULTANEOUSLY NOT ONLY THE UNILATERAL OPERATIONS OF LOANS, DEPOSITS OR DONATIONS BUT ALSO BI- OR MULTILATERAL EXCHANGES,

HAVING BEFORE IT PROPOSALS CONCERNING THE EXCHANGE OF ORIGINAL OBJECTS AND SPECIMENS BETWEEN INSTITUTIONS IN DIFFERENT COUNTRIES, WHICH APPEARS ON THE AGENDA OF THE SESSION AS ITEM.....,

HAVING DECIDED, AT ITS EIGHTEENTH SESSION, THAT THIS QUESTION SHOULD BE REGULATED AT INTERNATIONAL LEVEL BY WAY OF A RECOMMENDATION TO MEMBER STATES,

ADOPTS, THIS DAY OF NOVEMBER 1976, THE FOLLOWING RECOMMENDATION.

THE GENERAL CONFERENCE RECOMMENDS THAT MEMBER STATES SHOULD APPLY THE FOLLOWING PROVISIONS BY TAKING WHATEVER LEGISLATIVE OR OTHER STEPS MAY BE REQUIRED IN CONFORMITY WITH THE CONSTITUTIONAL PRACTICE OF EACH STATE TO GIVE EFFECT WITHIN THEIR RESPECTIVE TERRITORIES TO THE LIMITED OFFICIAL USE

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PRINCIPLES SET FORTH IN THIS RECOMMENDATION.

THE GENERAL CONFERENCE RECOMMENDS THAT THE MEMBER STATES
SHOULD BRING THIS RECOMMENDATION TO THE ATTENTION OF THE
APPROPRIATE AUTHORITIES AND BODIES.

THE GENERAL CONFERENCE RECOMMENDS THAT MEMBER STATES
SHOULD SUBMIT TO IT, BY DATES AND IN THE FORM TO BE
DECIDED UPON BY THE CONFERENCE, REPORTS CONCERNING THE
ACTION TAKEN BY THEM IN PURSUANCE OF THIS RECOMMENDATION.

I. DEFINITIONS

1. FOR THE PURPOSES OF THIS RECOMMENDATION:

"CULTURAL INSTITUTION" SHALL BE TAKEN TO MEAN ANY
PERMANENT ESTABLISHMENT ADMINISTERED IN THE GENERAL
INTEREST FOR THE PURPOSE OF PRESERVING, STUDYING AND

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ACTION IO-11

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SSO-00 INRE-00 /074 W

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FM AMEMBASSY PARIS

TO SECSTATE WASHDC IMMEDIATE 8619

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ENHANCING CULTURAL PROPERTY AND MAKING IT ACCESSIBLE TO THE PUBLIC AND WHICH IS LICENSED OR APPROVED BY THE COMPETENT PUBLIC AUTHORITIES OF EACH STATE;

"CULTURAL PROPERTY" SHALL BE TAKEN TO MEAN PROPERTY DESIGNATED BY THE COMPETENT AUTHORITIES OF EACH STATE AS BEING OF IMPORTANCE FOR ARCHAEOLOGY, PREHISTORY, HISTORY, LITERATURE, ART OR SCIENCE AND WHICH INCLUDES THE FOLLOWING CATEGORIES:

(A) SPECIALLY PROTECTED PLANT AND ANIMAL SPECIES, COLLECTIONS AND SPECIMENS OF FAUNA, FLORA, MINERALS AND ANATOMY, AND OBJECTS OF PALAEONTOLOGICAL INTEREST;

(B) PROPERTY RELATING TO HISTORY, INCLUDING THE HISTORY OF SCIENCE AND TECHNOLOGY AND MILITARY AND SOCIAL HISTORY ,TO THE LIFE OF NATIONAL LEADERS, THINKERS, SCIENTISTS AND ARTISTS AND TO EVENTS OF NATIONAL IMPORTANCE;

(C) PRODUCTS OF ARCHAEOLOGICAL EXCAVATIONS AND DISCOVERIES;

(D) ELEMENTS OF ARTISTIC OR HISTORICAL MONUMENTS OR LIMITED OFFICIAL USE

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ARCHAEOLOGICAL SITES WHICH HAVE BEEN DISMEMBERED;

(E) ANTIQUITIES SUCH AS INSCRIPTIONS, COINS AND ENGRAVED SEALS;

(F) OBJECTS OF ETHNOLOGICAL INTEREST;

(G) PROPERTY OF ARTISTIC INTEREST, SUCH AS:

(I) PICTURES, PAINTINGS AND DRAWINGS ON ANY SUPPORT AND IN ANY MATERIAL (EXCLUDING INDUSTRIAL DESIGNS AND MANUFACTURED ARTICLES DECORATED BY HAND);

(II) ORIGINAL WORKS OF STATUARY ART AND SCULPTURE IN ANY MATERIAL;

(III) ORIGINAL ENGRAVINGS, PRINTS AND LITHOGRAPHS;

(IV) ORIGINAL ARTISTIC ASSEMBLAGES AND MONTAGES IN ANY MATERIAL;

(V) PHONOGRAPHIC, PHOTOGRAPHIC AND CINEMATOGRAPHIC WORKS AND ALL OTHER AUDIO-VISUAL RECORDINGS;

(H) MANUSCRIPTS AND INCUNABULA, OLD BOOKS, DOCUMENTS AND PUBLICATIONS OF SPECIAL INTEREST (HISTORICAL, ARTISTIC, SCIENTIFIC, LITERARY, ETC.) SINGLY OR IN COLLECTIONS;

(I) POSTAGE, REVENUE AND SIMILAR STAMPS, SINGLY OR IN COLLECTIONS;

(J) ARCHIVES, INCLUDING SOUND, PHOTOGRAPHIC AND CINEMATOGRAPHIC ARCHIVES;

(K) OBJECTS OF APPLIED AND MINOR ARTS, SUCH AS ARTICLES OF FURNITURE, OLD MUSICAL INSTRUMENTS, GOLD AND SILVER WORK, EMBROIDERY, CERAMICS AND GLASSWARE.

"INTERNATIONAL EXCHANGE" SHALL BE TAKEN TO MEAN ANY RECIPROCAL OR UNILATERAL TRANSFER OF CULTURAL PROPERTY - THE EXCHANGE OF OWNERSHIP OR USE, SHORT- OR LONG-TERM LIMITED OFFICIAL USE

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LOAN OR DONATION OF SUCH PROPERTY - CARRIED OUT BETWEEN TWO OR MORE CULTURAL INSTITUTIONS IN DIFFERENT COUNTRIES ON A NON-PROFIT MAKING BASIS FOR THE PURPOSE OF ORGANIZING SPECIFIC EVENTS AND IN PARTICULAR TEMPORARY OR PERMANENT EXHIBITIONS;

"EXCHANGE" SHALL BE TAKEN TO MEAN THE AGREEMENT WHEREBY TWO OR MORE CULTURAL INSTITUTIONS UNDERTAKE TO TRANSFER FROM ONE TO ANOTHER THE OWNERSHIP OR USE OF CULTURAL PROPERTY IN THEIR CUSTODY, THE PERFORMANCE OF THE UNDERTAKING BY THE OTHER PARTIES BEING FOR EACH OF THE PARTIES THE DETERMINANT OF ITS OWN UNDERTAKING. WHEN IT CONCERNS THE OWNERSHIP OF THE PROPERTY IN QUESTION, EXCHANGE BECOMES DEFINITIVE FROM THE MOMENT WHEN ALL PARTIES HAVE PERFORMED THEIR UNDERTAKING IN ACCORDANCE WITH THE CONDITIONS SET OUT IN THE AGREEMENT. WHEN IT CONCERNS THE USE OF THE PROPERTY IN QUESTION, EXCHANGE IS A TEMPORARY ARRANGEMENT EITHER BECAUSE ITS DURATION IS STIPULATED IN THE AGREEMENT OR BECAUSE IT MAY BE TERMINATED BY ANY OF THE PARTIES AT WILL, PROVIDED

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SSO-00 INRE-00 /074 W

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TO SECSTATE WASHDC IMMEDIATE 8620

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THAT ANY CONDITIONS REGARDING PRIOR NOTICE WHICH MAY BE LAID DOWN IN THE AGREEMENT ARE OBSERVED. ALL PARTIES ARE THEN OBLIGED TO RETURN SIMULTANEOUSLY THE PROPERTY LENT TO THEM. AN EXCHANGE ARRANGEMENT CONCERNING THE USE OF PROPERTY MAY NOT, WHATEVER ITS DURATION, LEAD TO A TRANSFER OF OWNERSHIP OF THE PROPERTY IN QUESTION, UNLESS A NEW AGREEMENT IS EXPRESSLY CONCLUDED FOR THIS PURPOSE;

"LOAN" SHALL BE TAKEN TO MEAN THE AGREEMENT WHEREBY ONE PARTY MAKES AVAILABLE TO THE OTHER, ON A NON-PROFIT-MAKING BASIS AND FOR A SHORTER OR LONGER PERIOD, ONE OR MORE ITEMS OF CULTURAL PROPERTY FOR THE PURPOSE OF ORGANIZING SPECIFIC EVENTS AND IN PARTICULAR TEMPORARY OR PERMANENT EXHIBITIONS, ON CONDITION THAT THEY ARE CONSERVED BY THE RECEIVING PARTY IN SUCH A WAY AS TO BE COMPATIBLE WITH THEIR INTENDED PURPOSE AND ARE RETURNED IN THE CONDITION IN WHICH THEY WERE RECEIVED. A LOAN IS A TEMPORARY ARRANGEMENT EITHER BECAUSE ITS DURATION IS STIPULATED IN THE AGREEMENT OR BECAUSE IT MAY BE TERMINATED BY ANY OF THE PARTIES AT WILL, PROVIDED THAT ANY CONDITIONS REGARDING PRIOR NOTICE WHICH MAY BE LAID DOWN IN THE AGREEMENT ARE OBSERVED;

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"DONATION" SHALL BE TAKEN TO MEAN THE AGREEMENT WHEREBY THE DONOR TRANSFERS TO THE RECIPIENT, FREE OF CHARGE, THE OWNERSHIP OF THE PROPERTY IN QUESTION.

II. MEASURES RECOMMENDED

2. BEARING IN MIND THAT ALL CULTURAL PROPERTY FORMS PART OF THE COMMON CULTURAL HERITAGE OF MANKIND AND THAT EVERY STATE HAS A RESPONSIBILITY IN THIS RESPECT, NOT ONLY TOWARDS ITS OWN NATIONALS BUT ALSO TOWARDS THE INTERNATIONAL COMMUNITY AS A WHOLE' MEMBER STATES SHOULD ADOPT THE FOLLOWING MEASURES TO DEVELOP THE CIRCULATION OF CULTURAL PROPERTY AMONG CULTURAL INSTITUTIONS IN DIFFERENT COUNTRIES.

LEGISLATIVE MEASURES OR REGULATIONS

3. MEMBER STATES, IN ACCORDANCE WITH THE LEGISLATION AND CONSTITUTIONAL PRACTICE AND THE PARTICULAR CIRCUMSTANCES OF THEIR RESPECTIVE COUNTRIES, SHOULD MODIFY EXISTING STATUTES OR REGULATIONS OR ADOPT NEW LEGISLATION OR REGULATIONS REGARDING INHERITANCE, TAXATION AND CUSTOMS DUTIES IN ORDER TO MAKE IT POSSIBLE OR EASIER TO CARRY OUT THE FOLLOWING OPERATIONS SOLELY FOR THE PURPOSES OF INTERNATIONAL EXCHANGES OF CULTURAL PROPERTY BETWEEN CULTURAL INSTITUTIONS OR GOVERNMENTS:

(A) TRANSFER OF OWNERSHIP OR DERESTRICTION OF CULTURAL PROPERTY BELONGING TO A PUBLIC BODY OR A CULTURAL INSTITUTION,

(B) DEFINITIVE OR TEMPORARY IMPORT OR EXPORT OF CULTURAL PROPERTY.

ADMINISTRATIVE AND FINANCIAL MEASURES

4. IF NECESSARY, MEMBER STATES SHOULD ESTABLISH EITHER UNDER THEIR DIRECT AUTHORITY OR THROUGH CULTURAL INSTITUTIONS PLACED UNDER THEIR AUTHORITY OR SUPERVISION, A NATIONAL FILE, TO BE AS COMPREHENSIVE AS POSSIBLE, OF REQUESTS FOR AND OFFERS OF EXCHANGES OF CULTURAL PROPERTY LIMITED OFFICIAL USE

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MADE AVAILABLE BY THESE INSTITUTIONS FOR INTERNATIONAL EXCHANGE.

5. OFFERS OF EXCHANGES SHOULD BE ENTERED IN THE FILE ONLY ON CONDITION THAT THEY CONCERN ITEMS WHOSE LEGAL STATUS IS FOUND, AFTER VERIFICATION, TO BE IN ORDER UNDER NATIONAL LAW.

6. THEY SHOULD INCLUDE THE CORRELATIVE OFFER OF ALL DOCUMENTATION CALCULATED TO BRING OUT THE FULL CULTURAL

SIGNIFICANCE OF THE ITEMS IN QUESTION.

7. MEMBER STATES SHOULD GIVE FINANCIAL ASSISTANCE TO
LOCAL CULTURAL INSTITUTIONS IN ORDER TO FACILITATE THE
CARRYING OUT OF INTERNATIONAL EXCHANGES.

8. MEMBER STATES SHOULD TAKE ALL NECESSARY MEASURES TO
FACILITATE THE TRANSFER OF CULTURAL PROPERTY FOR THE
PURPOSES OF INTERNATIONAL EXCHANGES TO CULTURAL
INSTITUTIONS OR FOREIGN GOVERNMENTS AND IN PARTICULAR THE

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TO SECSTATE WASHDC IMMEDIATE 8621

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MEASURES PROVIDED FOR IN THE AGREEMENT FOR FACILITATING
THE INTERNATIONAL CIRCULATION OF VISUAL AND AUDITORY
MATERIAL OF AN EDUCATIONAL, SCIENTIFIC AND CULTURAL
CHARACTER, ADOPTED BY THE GENERAL CONFERENCE OF UNESCO IN
BEIRUT IN 1948, THE AGREEMENT ON THE IMPORTATION OF
EDUCATIONAL, SCIENTIFIC AND CULTURAL MATERIALS, ADOPTED
BY THE GENERAL CONFERENCE OF UNESCO IN FLORENCE IN 1950,
AND THE CUSTOMS CONVENTION CONCERNING FACILITIES FOR THE
IMPORTATION OF GOODS FOR DISPLAY OR USE AT EXHIBITIONS,
FAIRS, MEETINGS OR SIMILAR EVENTS, ADOPTED BY THE CUSTOMS
CO-OPERATION COUNCIL IN 1961 AND IN THE CUSTOMS

CONVENTIONS RELATING TO THE TEMPORARY IMPORTATION OF
SCIENTIFIC EQUIPMENT AND OF PEDAGOGICAL MATERIAL
CONCLUDED IN BRUSSELS IN 1968 AND 1970 RESPECTIVELY.

9. MEMBER STATES SHOULD GIVE SPECIAL ATTENTION TO THE
PROBLEM OF COVERING THE RISKS TO WHICH CULTURAL PROPERTY
IS EXPOSED THROUGHOUT THE DURATION OF LOANS, INCLUDING
THE PERIOD SPENT IN TRANSPORT, AND SHOULD IN PARTICULAR,
STUDY THE POSSIBILITY OF INTRODUCING GOVERNMENT GUARANTEE
AND COMPENSATION SYSTEMS FOR THE LOAN OF OBJECTS OF GREAT
VALUE, SUCH AS THOSE WHICH ALREADY EXIST IN CERTAIN
COUNTRIES. END QUOTE
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5. PLEASE ADVISE.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: n/a
Control Number: n/a
Copy: SINGLE
Draft Date: 09 MAR 1976
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: ShawDG
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976PARIS06970
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
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From: PARIS
Handling Restrictions: n/a
Image Path:
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Legacy Key: link1976/newtext/t19760380/aaaacsld.tel
Line Count: 568
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION IO
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 11
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: 76 STATE 50665
Review Action: RELEASED, APPROVED
Review Authority: ShawDG
Review Comment: n/a
Review Content Flags:
Review Date: 31 MAR 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <31 MAR 2004 by MartinML>; APPROVED <29 JUL 2004 by ShawDG>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: UNESCO SPECIAL COMMITTEE OF GOVERNMENTAL EXPERTS TO PREPARE A DRAFT RECOMMENDATION ON
TAGS: OCON, UNESCO
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006